



Texas House of Representatives
Insurance Committee
RE: Notice of Formal Request for Information
Submitted via email to: Sergio.Cavazos_HC@house.texas.gov.

September 8, 2020

Dear Chair Lucio, Vice Chair Oliverson, and Committee Members,

Texas Appleseed is a public interest justice center, and, as part of our fair financial services project, we work on systemic reforms to balance the scales for Texans, in support of financial well-being. We are submitting this letter in response to your call for comments related to issues under the committee jurisdiction.

This submission is in response to Interim Charge 2:

Study the adequacy of the state's insurance laws on regulating the introduction of insurtech products into the Texas insurance market. Include in the study the impact of big data, blockchain, internet of things, and artificial intelligence technologies on industry practices such as claims handling, underwriting, and policy writing. Study whether these technologies present challenges for any of the state's insurance laws, including the state's antidiscrimination, data privacy, anti-rebate, and licensing laws and regulations. Additionally, examine the pros and cons of adopting a regulatory sandbox and consider sandbox programs that are implemented in other states.

Texas Appleseed is generally concerned with any policy that separates auto insurance pricing from driving records. The use of big data in insurance pricing models raises the potential for racial disparities that could be hidden and harder to discern due to the increased complexities of models and the broad spectrum of factors that could be correlated to risk but have no causal relationship to risk. Big data could also lead to invasive practices that blur the lines of personal privacy—for example allowing expanded ability to use data collected by vehicles and location data for auto insurance pricing raises questions about the boundaries of data collection and its use.

With regard to the regulatory sandbox, this concept has been most actively explored in the context of financial technology products. The Texas Department of Banking developed a model for a sandbox, grounded in essential principles of maintaining regulatory oversight by the appropriate regulatory agency and maintaining financial liability for harms to consumers. The first state-based sandbox program, the Arizona sandbox, is most concerning on two fronts—first, it places the power of selecting participants and overseeing the program with the state attorney general, who does not have the regulatory expertise of the state regulatory agencies; second, the program leaves consumers holding the bag if the new sandbox product ends up causing consumer harms. Though consumer protection laws may technically be applicable in the case of the Arizona sandbox, there is no requirement that the sandbox participant hold assets to ensure responsibility for harms and accountability for full compliance with applicable state and federal consumer protection laws.

Technology and innovation are neutral. They can be used to improve products or used for harm. It is essential that any new approaches to insurtech, big data, or regulatory sandboxes be considered with the utmost of caution to ensure that they live up to the promise of positive innovation and do not lead to discriminatory practices or other outcomes harmful to Texas consumers.

Thank you for the opportunity to comment on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Baddour". The signature is fluid and cursive, with the first name "Ann" and last name "Baddour" clearly distinguishable.

Ann Baddour
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